

### REMARKS

Reconsideration and allowance of the present application based on the foregoing amendments and the following remarks are respectfully requested.

As an initial matter, the Examiner's attention is drawn to the fact that a new Power of Attorney is being filed with this Amendment, appointing the undersigned's law firm as attorneys of record and revoking all prior powers of attorney. The Examiner is requested to direct further communications concerning this application to the undersigned.

Claims 1-8 and 33 are currently pending in the present application. Claims 9-32 were previously canceled in a Preliminary Amendment, and claim 33 is newly added. Of these claims, claim 1 is the only independent claim.

Claim 1 stands rejected as being anticipated by U.S. Patent No. 6,145,243 to Wigton, or as being obvious in view of U.S. Patent No. 5,205,065 to Wilson in view of Wigton. To overcome these rejections, claim 1 has been amended to clarify the offset relationship of the insect trap and the exhaust tube, and the elements of the insect trap.

First, claim 1 has been amended to define the original "insect trap" as being an "insect trap assembly" comprising "a housing having an inlet, an insect trap communicated to the inlet, and a vacuum generator operable to draw an inflow of air from outside the housing into the inlet for drawing insects into the housing for capture in the insect trap." The housing includes the inlet through which the inflow is drawn. The vacuum device generates the inflow, and the insect trap captures the insects drawn into the housing. This construction provides an assembly that is suitable for capturing insects attracted to the trap assembly. To attract insects to the trap assembly, the apparatus further includes a "gas burner for receiving a combustible gas and generating hot carbon dioxide gas and moisture." This gas is exhausted through an "outlet" in a "vertically extending exhaust tube." This gas, containing carbon dioxide, is an insect attractant that attracts insects to the apparatus for capture by the "insect trap assembly."

Claim 1 also defines the insect trap assembly (which includes the housing, the vacuum generator, and the insect trap) and the exhaust tube as being "offset from and exteriorly of one another." This "exteriorly of one another" language has been added to more clearly clarify the claim scope and differentiate claim 1 from the prior art. Originally, claim 1

simply stated that the insect trap was spaced offset from the exhaust tube. However, it appears from the Official Action that the Examiner construed this language so broadly as to encompass any spaced relation, such as the concentric relation between elements 28 and 37 in Wilson, or the relationship in Wigton where the exhaust tube 44 extends in and through the inlet tube that leads to the trap 34.

To better clarify the “spaced offset” relationship, claim 1 has been amended to recite that the “insect trap assembly” and the “exhaust tube” are positioned “exteriorly of one another.” That means that each of these structures has to be located exteriorly of the other, as is illustrated in the non-limiting embodiment shown in the Figures of this application.

Neither Wigton nor Wilson can be regarded as teaching such a construction. In Wilson, the alleged “exhaust tube” 37 is located inside the alleged “insect trap assembly” 28. This does not meet the requirement of the insect trap assembly and the exhaust tube being positioned “exteriorly of” each other. Likewise, in Wigton, the exhaust tube 44 extends within and through tube 30 (which would be considered part of the “housing” of the insect trap assembly, as it provides the inlet opening 32). This also does not meet the requirement of these structures being positioned “exteriorly of” each other.

Because this claim limitation is not taught by the art of record, it is submitted that claim 1 as currently amended is patentable over the art of record and the Examiner is respectfully requested to withdraw her rejection against it.

Claims 2-8 and 33 depend from claim 1. These dependent claims are submitted to be patentable based on upon such dependency, and also for the reason that they recite additional patentable features.

The Examiner’s rejection under §112, ¶2 is noted. This rejection has been rendered moot by that fact that claim 1 no longer recites an “inflow channel” and thus its recitation in a later claim is not a second inclusion of the same limitation.

With respect to the double-patenting rejection, filed with this Amendment is a Terminal Disclaimer to overcome that rejection. Thus, withdrawal of this rejection is respectfully requested.

CONCLUSION

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance, and a Notice to that effect is earnestly solicited.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP LLP

A handwritten signature in black ink, appearing to read 'Bryan P. Collins', is written over the printed name.

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